

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GARY L. BLANKENSHIP, )  
Plaintiff, ) 4:06cv3111  
vs. ) MEMORANDUM AND ORDER  
DR. BAGLEY, et al., )  
Defendants. )

This matter is before the court on motions for mandamus filed by the plaintiff, Gary L. Blankenship, a prisoner (filing nos. 5, 7, 8, 10, 11, 12, 13 and 14). The motions are premature, as the defendants have not yet been served with process and brought before the court to respond to the plaintiff's claims about his medical care.

However, Magistrate Judge F. A. Gossett informs me that he is entering an Order on Initial Review which will result in sending forms to the plaintiff to complete so that the U.S. Marshal may serve the defendants on the plaintiff's behalf. After the defendants enter their appearances, the plaintiff may file another motion if he is inclined to do so.<sup>1</sup> Filing nos. 5, 7, 8, 10, 11, 12, 13 and 14 are denied at this time as premature.

SO ORDERED.

August 21, 2006.

BY THE COURT:

s/ *Richard G. Kopf*  
United States District Judge

<sup>1</sup>The progress of this case was held up because the plaintiff could not pay his initial partial filing fee. Pursuant to the Prison Litigation Reform Act ("PLRA"), an imprisoned civil plaintiff must pay the court's entire filing fee, either at the outset when filing the complaint, or in installments if the court grants leave to proceed in forma pauperis ("IFP"). If a motion to proceed IFP is granted, the court assesses an initial partial filing fee. For prisoners proceeding IFP, usually initial review of the complaint, service of process on the defendant(s), and progression of the case do not occur until after the court receives the initial partial filing fee. However, if a prisoner has no assets available in his or her inmate trust account to pay the initial fee, the PLRA does not require dismissal of the case. Instead, as in this case, a new order is entered allowing the plaintiff to pay the fee when funds exist in his or her inmate trust account. Then initial review of the complaint and service of process on the defendant(s) can proceed.